BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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IN THE MATTER	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

To: The Commission

REPLY COMMENTS
OF THE RONAN TELEPHONE COMPANY CONSUMER ADVISORY COMMITTEE

Summary

* RTC Consumer Advisory Committee (the Committee) represents telephone users in Ronan and Pablo, Montana, located on the Flathead Indian Reservation.
* The Committee has reviewed initial comments in the proceeding and continues to believe that "Bill & Keep" intercarrier arrangements are not in consumer's best interest.
* The Committee believes that the proposals in this docket will cause rate shock with up to 700% increase in local telephone rates, making telephone service unaffordable to a large portion of our community.
* The Committee believes that this policy will eliminate any incentive to invest in our wireline infrastructure, and could put our telephone company out of business.
* The committee urges the FCC to initiate a separate docket to carefully consider issues unique to rural areas and Indian Reservations.

Comments

The Ronan Telephone Company Consumer Advisory Committee (hereinafter, Committee) is an independent group of seven consumers in the Montana communities of Ronan and Pablo, located on the Flathead Indian Reservation in Western Montana.[1] The Committee consults with and advises the Ronan Telephone Company [2] regarding the provision of services, pricing, and public policy matters that affect telephone consumers in this community. The Committee filed its initial Comments herein on August 15, 2001.

Our Committee has reviewed a summary of the comments filed by various parties in this proceeding, and continue to firmly believe that the policy direction of the FCC is not in the best interests of consumers, especially in rural areas and Indian Reservations.

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[1] The small rural towns of Ronan and Pablo are located in the heart of the Flathead Indian Reservation in western Montana. This Indian Reservation community is the home of the Confederated Salish and Kootenai Tribes (CS&KT) and includes an ethnically diverse mix of Indian and non-Indian people. The community has a low average per capita income of approximately $16,500 per year, nearly 40% lower than the national average. The economy is a mixture of agriculture, timber processing, light manufacturing, tourism, retail services, Tribal businesses, and local, State and Federal services. Our community is economically disadvantaged, both in comparison to Montana and national norms.

[2] Ronan Telephone Company (RTC) is a locally owned, small independent rural incumbent local exchange carrier serving approximately 3,800 access lines on the Flathead Reservation, including the towns of Ronan and Pablo. RTC is the only universal provider of wireline telephone service in this community.

We strongly believe that the proposed transition to a "bill and keep" unified intercarrier compensation system is diametrically contrary to universal service goals of state and Federal law, and seriously misguided public policy. A separate docket should be initiated by the FCC to separately consider the NPRM issues in the context of the unique characteristics of rural America and Indian Reservations.

The presumptions of the FCC's analysis are not present in rural America. Small communities and Indian Reservations do not have lower service costs or the relatively higher levels of competition, which are present in urban areas. In considering the FCC's proposals, the Committee is unable to identify any potential benefits whatsoever that would accrue to rural areas. The Committee can foresee only serious negative impacts, namely:

1) The loss of 60% to 70% of revenues which would force our local telephone rates far above affordable levels in this low income, economically depressed area.
2) Evisceration of any investment incentives for the company to make needed investments to maintain or improve basic telephone service, or to provide new, advanced or broadband services;
3) reduction in telephone service quality; and
4) elimination of many local telephone employees and the resulting economic multiplier effect of salaries and investments in our community.

Rural America provides the food, raw materials and natural resources that fuel this country's economy. But, the FCC proposes to abandon rural America to backwater telephone service, economic decline and local rate shock. Rural America deserves much more respect and consideration. This Committee is composed of ordinary lay citizens of the Ronan/Pablo, Montana community, and we know from personal knowledge of this community that many persons and families would not be able to afford the drastic rate increases that would likely result from a bill and keep regime.[3] The FCC's proposals are thereby directly contrary to the state and federal policy goals of preserving and advancing universal service, and in particular, the goals of ensuring reasonable basic telephone rates for the low-income, fixed income, and disadvantaged members of our community, both Indian and non-Indian.

We are informed by Ronan Telephone Company's management that the carrier access charge revenue at issue in this community amounts to approximately $70 per line per month (interstate and intrastate combined). Local telephone rate increases of this magnitude are unacceptable. Our local telephone company would be forced to drastically cut costs, to the point of sacrificing an acceptable level of customer service. They would also be forced to cancel or drastically reduce the level of investment in the wireline

[3] Based on the potential loss of revenues, Ronan Telephone Company estimates that local rates would need to increase by approximately 700% to adequately compensate the company for its costs and preserve current service quality levels.

infrastructure, not only for improvements in new services and technology, but even maintenance of the current level of service.

Although the Commission has purported theoretical economic analysis to justify the proposals in the NPRM herein (OPP Working Papers No. 33 and 34), it must give appropriate consideration to the real-world practical impacts the proposal would have in rural America. For Ronan Telephone Company, blanket application of a bill and keep intercarrier compensation policy (to interstate and intrastate services) would eliminate approximately 60% to 70% of its current regulated revenues, which would have to be recouped somehow, or the Company would simply fail to survive. The FCC should conform its decisions to the requirements of statutory and constitutional law. The Telecommunications Act clearly requires the recovery of costs to terminate traffic on each carrier's network: reciprocal compensation must provide for the,

> mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; 47 U.S.C. Sec. 252(d)(2)

Further, the Constitution prohibits the "taking" of property without just compensation, U.S. Const., 5th Amendment.[4] The Committee, or its Attorney, cannot conceive of any real world scenario in which the Commission's bill and keep proposals in this proceeding

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[4] See e.g. *Verizon Communications v. FCC et.al* (Cause No. 00-511 et.al), now pending before the United States Supreme Court.

could satisfy legal scrutiny.[5] In addition to the universal service directives in Section 254 of the Federal Act, which include special protections intended for rural areas, 47 U.S.C. §254(b)(3), Montana law likewise provides pre-eminent legal and policy protection to the goal of affordable basic telephone service, in Section 69-3-802, MCA.[6] The Commission should act within the above cited legal parameters, and with due consideration to the demographic realities in rural areas and Reservations.[7]

We also observe that, in our opinion, a bill and keep regime would not satisfy the above legal requirements even in an urban setting; or for that matter, would such a regime appear to coincide with common sense economic principles; namely, requiring the

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[5] For example, to satisfy Section 252(d)(2), traffic between two networks would have to be equal in each direction, *and* the costs to terminate each minute of traffic on each carrier's network would also have to be equal; a highly unlikely situation.

[6] The FCC is apparently considering pre-empting intrastate carrier compensation in this proceeding (See NPRM, ¶121). Therefore, the consideration of state law in also an important consideration; Montana law provides: "The legislature declares that it remains the policy of the state of Montana to maintain universal availability of basic telecommunications service at affordable rates." §69-3-802, MCA.

[7] The FCC's NPRM invites comments on the "specific needs of small entities", ¶128.

incumbent carrier to give its services away to its direct competitors (ie. other carriers) without any compensation whatsoever. Such a proposal is blatantly contrary to the basic precepts of our market economy, a blatant violation of the most basic tenets of telecommunications law[8] and the constitutional prohibition against taking property without just compensation.

The Committee respectfully requests that the FCC separate this proceeding into two dockets, one for urban areas, and one for rural areas; so that due and proper consideration can be given to the marked distinctions and unique characteristics of rural areas. Most importantly, it must be formally recognized that rural areas are unique, require separate analysis, and do not fit a model or mold formulated for urban America. The dramatic differences between the rural and urban areas of our nation include:

1) Drastically lower population densities (e.g. Montana has 0.06% of the population density of Washington D.C.);
2) Dramatically higher costs to provide basic infrastructure and utilities;
3) Much lower per capita income levels;
4) Generally lower levels of education and job skills;
5) Fewer opportunities for educational and career advancement;
6) Social and culture differences, especially on Indian Reservations and other

[8] The principle that a firm cannot be required to provide services below costs. §69-3-811, MCA and 47 U.S.C. §252(d).

unique ethnic areas.

The Telecommunications Act itself recognizes exemptions and differing requirements for rural areas (e.g. 47 U.S.C. §§214(e)(2), 251(f), 254(g), and 254(b)(3)); and the Commission itself has processed separate rural and urban dockets for access reform and universal service. Likewise this Docket should be divided and the rural component separately analyzed. The FCC NPRM merely suggests that delayed rural implementation may be appropriate (¶128), however, the Committee believes that separate and due deliberation will result in distinct conclusions for rural America. The Committee believes that dramatically different conclusions will be reached with respect to the problems identified in the FCC's NPRM, and in the need for and form of any solutions.

We cannot predict who will benefit from the idea of unified bill and keep interconnection, which would allow all carriers to use the local wireline infrastructure for free, but we are confident that the average rural telephone consumer will be harmed. We fail to see the reason, logic or public policy benefits of such a system for our community, or for other rural areas and Indian Reservations.

In summary, the Committee sees no benefits whatsoever to rural communities or Indian reservations, from the FCC's bill and keep proposals herein, but instead only drastic negative impacts. The Committee urges the FCC to divide this proceeding into urban and rural dockets, to assure the careful and deliberate study of unique rural characteristics and needs, in the evolving telecommunications marketplace, while preserving the essential rural infrastructure upon which this nation's agricultural and natural resource economy depends.

DATED: November 5, 2001

Respectfully Submitted,

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Corwin (Corky) Clairmont, Chairman